

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 19-0687V

UNPUBLISHED

JUDITH MARKEY,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 21, 2020

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Pneumococcal  
Conjugate Vaccine; Shoulder Injury  
Related to Vaccine Administration  
(SIRVA)

*Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for petitioner.*

*Darryl R. Wishard, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On May 8, 2019, Judith Markey filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury related to vaccine administration (“SIRVA”) as a result of a pneumococcal conjugate (“Prevnar-13”) vaccination administered on July 21, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 20, 2020, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

at 1. Specifically, Respondent has “concluded that [P]etitioner’s alleged injury is consistent with SIRVA of the left arm and that it meets the requirements of a Table injury claim for SIRVA stemming from the Prevnar-13 vaccination on July 21, 2017.” *Id.* at 5. Respondent further agrees that Petitioner has suffered the sequela of her injury for more than six months. *Id.*

**In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master